



DISCLOSURE and TRANSPARENCY in the AUTOMOBILE FINANCE INDUSTRY: A CALL FOR ACTION

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Disclosure and Transparency in the Automobile Industry: A Call for Action

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I. THE ECONOMIC AND SOCIAL COST OF CREDIT TODAY

The consumer credit market has changed dramatically in the last half century, fueled largely by technological advances, deregulation, and financial innovation. As recently as 40 years ago, consumers and advocates across the United States were questioning whether credit services were equitably distributed among their communities. With the fairly recent rise of subprime lending, which includes millions of borrowers who were previously denied credit in the lending market, the question is no longer limited to whether everyone has access to credit. The collapse of the home mortgage industry, which is fueling an economic downturn of historic proportions, is instead raising questions about the fairness, social cost, and even legality of the terms at which consumer credit is available today, particularly in the subprime finance market. The U.S. economy is only beginning to experience the detrimental effects that some subprime lending practices can cause.

Automobile Finance: A Growing Crisis

In addition to instability caused by the crisis in subprime mortgage lending, there is growing concern over troubling developments in another crucial sector of the lending industry: automobile finance. Increasing rates of automobile loan default – especially on subprime loans – are worrying industry analysts and consumer advocates

that another foreclosure crisis is ahead¹. Early this year, automobile loan defaults – failure to complete payment on the loan – reached a ten-year high at 3.4 percent.² Subprime automobile loans now have a delinquency rate – failure to make scheduled loan payments on time – of 11.6 percent, up from 6.8 percent last year.³ As of March 2008, vehicle repossessions also increased by fifteen percent over the 2007 rate across the nation.⁴

Some economists believe that the mortgage crisis is spilling into the automobile finance market because borrowers did not fully appreciate the impact the rate increase on their adjustable rate mortgage would have on their budgets. Faced with the choice of defaulting on their mortgage or their car payment, many people choose the car payment.⁵ Although repossession “frees” consumers of car ownership, they are not necessarily free of the financial obligation. Aside from the seven-year black mark on their credit report, they may still be responsible for repayment of any amount owed that the lender cannot recover through re-sale of the vehicle.⁶ This negative debt cycle forces consumers’ finances and our entire economy into an even more fragile state. In September 2008, delinquencies on subprime automobile loan-backed securities hit an eleven-year high and climbed to 4.28 percent.⁷ This number represents a 40 percent increase over September 2007.⁸

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Predatory and unethical lending patterns are another troubling issue within subprime automobile financing. For most consumers, a car or private vehicle will be one of the largest purchases of their lives, second only to a home. With limited regulation that is often not enforced, some automobile dealers and lenders – including Buy Here Pay Here lots⁹ – are taking advantage of families and individuals that have limited options and information at their disposal, generating large profits on the sale of often unreliable and overpriced vehicles while saddling millions of consumers with high, sometimes unmanageable, levels of debt. Because no disclosure laws are currently in place regarding automobile lending, unethical lenders face few consequences for predatory lending practices. Because of the industry’s lack of transparency, consumers and advocates have few resources to gauge patterns within the lending process to determine the existence of discriminatory or unfair lending actions.

HMDA: Lessons from the Mortgage Industry

In the 1960s and 70s, communities across the U.S. grew concerned about the connection between discriminatory lending practices by financial institutions and the continuing decline of their neighborhoods.¹⁰ Advocates and members of civil rights groups accused banks and other commercial lenders of a practice known as “redlining,” in which institutions take deposits from neighborhood residents but do not lend in those same

neighborhoods. Congress agreed that the advocates' claim warranted disclosure requirements by financial institutions involved in mortgage lending. In 1975, Congress enacted the Home Mortgage Disclosure Act (HMDA), requiring that lenders disclose aspects of the data collected through home mortgage applications and lending activities. In 1989, HMDA was amended to include the applicant's or borrower's race, ethnicity, gender, and income, as well as loan characteristics such as the amount, purpose, and the census tract location of the property securing the loan.

The data gathered under HMDA has helped identify and remedy discriminatory (and abusive) lending practices and helped consumers have more fair access to credit.

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With this in mind, some advocates, researchers, and policymakers have concluded that disclosure requirements for the automobile finance industry, similar to those contained in HMDA, would provide useful data and promote accountability and responsible investment by automobile lenders in their communities.

II. PRIVATE VEHICLE ACCESS: DRIVING THE ECONOMY

HMDA has had overwhelming success in improving equitable investment and decreasing questionable lending practices in the home mortgage industry.¹² This success can be – and needs to be – replicated in the automobile

Access to a reliable, affordable vehicle is a crucial component of economic mobility in today's economy.

lending industry. Transparency and disclosure in this arena are important: access to fairly priced automobiles and fair credit terms is vital to helping families and workers secure employment, improving employment options and outcomes, ensuring overall family well-being, and building healthy communities and strong economies.

Driving is more than a privilege for people in most parts of the United States – it is a necessity. Access to a reliable, affordable vehicle is a crucial component of economic mobility in today's economy. An individual with access to a car has greater opportunity to work, work more hours, and earn higher wages. While mass transit is an important component of a comprehensive transportation plan in any healthy community, it is not always an accessible solution for many workers. People who have children or whose jobs require that they visit multiple locations in a day are not usually able to use mass transit to meet all of their transportation needs. Current smart growth strategies for community design typically involve mass transit options, but many new communities still plan development around the assumption that residents will have a car.¹³ In addition, scholars understand private vehicle access to be a better predictor of employment than mass transit, in part because a job applicant with a car can reach many more potential employers than one who is dependent on public bus or rail systems.¹⁴

U.S. workers' reliance on cars is evident in the modes of transportation they choose: in 2001, more than 91 percent of workers commuted to work in a private vehicle, while only five percent of all workers used public transportation, many of whom had no other option.¹⁵

Due to patterns of population decentralization over the last 50 years, in contrast to the urbanization of the first half of the 20th century, neighborhoods outside of city limits have been growing in numbers – by the year 2000 suburbs were home to almost two-thirds of residents and 57 percent of metropolitan-area jobs.¹⁶ Workers are separated from job locations by both distance and travel time. Public transportation in suburban areas is limited in scale and hours of operation, and is not always located within convenient walking distance to home, work, or services that are essential to families like health care, child care, and grocery shopping.

Access to a car is even more vital to low-wage workers, whose families often cannot afford expensive housing close to urban rail or bus lines. Many low-wage jobs require irregular working schedules that are not well served by fixed-schedule public transportation options. Private transportation increases earning potential and job mobility by increasing the number of employment options available. Residents with a car in one Los Angeles neighborhood, for example, were able to reach 59 times as many jobs within

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Healthy communities require smart, comprehensive transportation policies that include a mix of affordable options from which residents can choose.

a half-hour than individuals who were dependent on public transportation.¹⁷

Low-wage workers use a higher portion of their budgets to own and operate a vehicle than other workers.¹⁸

Therefore, access to fair and reasonable credit terms is even more important to them. The higher the interest rate and total payments on their vehicle loan, the lower their opportunity to build assets and gain mobility to a higher income level.

Healthy communities require smart, comprehensive transportation policies that include a mix of affordable options from which residents can choose. The obvious benefits that car ownership provides to families and local communities highlight the need for their inclusion in any community's economic development agenda.

Unfortunately, because of the lack of regulation and oversight in the automobile finance industry, many vehicle dealers and lenders have made it more difficult, and more expensive, for families and individuals to obtain and retain private vehicle ownership.

III. THE SUBPRIME AUTOMOBILE FINANCE INDUSTRY

A Growing Market

Subprime automobile financing is big business.¹⁹ A subprime loan is one that is offered at a rate above the prime interest rate to individuals who do not qualify for prime rate loans because of a low credit score, lack of established credit history, or low income.²⁰ Based on data collected from proprietary sources which are not publicly accessible, industry analysts estimate the size of the subprime automobile finance market ranges from \$100 billion²¹ to upwards of \$260 billion²², which accounts for anywhere from 19 to 50 percent of total automotive financing.²³ According to JD Power and Associates, in 2006, subprime loans accounted for almost \$50 billion of the \$290 billion in *new* vehicle purchases alone.²⁴ However, most subprime customers are purchasing used vehicles; in the same year, more than 71 percent of used vehicles were financed with subprime loans.²⁵

One key characteristic of subprime automobile loans is the high interest rates charged by lenders. Typically, lenders justify higher rates, which can be in excess of 18 percent, by pointing out the high risk of borrower default based on a low credit rating.²⁶

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Yet these lenders make profits ranging from 20 percent to 50 percent on high interest subprime loans, which implies that there is room for rate reduction while still maintaining a high level of profit.²⁸ Subprime borrowers – usually those with the fewest assets – end up paying much more for the same car than prime customers. A difference of ten percentage points on a loan – 18 percent for a subprime borrower versus eight percent for a prime borrower – results in an additional \$3,000 cost to the subprime consumer on a \$10,000 vehicle financed for five years.²⁹

Another characteristic of subprime automobile finance is unscrupulous and unfair lending practices. High-pressure automobile dealers may use underhanded tactics to coerce customers into accepting add-ons, higher payments, or unnecessary extended warranties.³⁰ Dealers will adjust the purchase price, add-on value, insurance premiums, or loan duration to maximize their commission if a customer wants to negotiate a lower interest rate. Different buyers may receive vehicles of equal value at disparate prices based solely on their ability to negotiate, or because of ruthless persistence by the dealer. A Texas study by the Consumers Union revealed that automobile add-ons cost consumers \$1.1 billion every year. The additional items – like extended warranties and theft protection – added \$99 to \$5,000 per product onto the price of the vehicles purchased and increased the total interest paid by consumers over the life of the loan.³¹

Dealers have even been so duplicitous as to create false pay stubs for customers to inflate their income, secure a higher loan amount, and increase their total payments.³² Dealers and lenders have been getting away with this unacceptable behavior because of the lack of regulation, accountability, and transparency within the automobile finance industry.

Relatively new players in the subprime automobile industry are found in the form of Buy Here Pay Here lots, where dealers typically charge at least a 50% down payment and allow buyers to “finance” the rest of the purchase price.³³ Many Buy Here Pay Here dealers do not report any of these payments to the major credit bureaus, particularly if the borrower pays on time – they are more likely to report delinquencies. Therefore, even if the borrower pays back the entire loan in a timely manner, they still may not build a credit history that will allow them to enter the prime market. In addition, because the vehicles sold on Buy Here Pay Here lots are usually older, unreliable vehicles, these dealers are often able to cover the entire cost with the customer’s 50% down payment alone. The remaining “principal payments” are actually pure profit for the dealer.³⁴

The lack of transparency within the industry is apparent in the information gulf between consumers and dealers. Dealers who arrange financing for buyers regularly mark up the interest rate beyond the rate for which the borrower qualifies, splitting the additional loan revenue with the

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lender. Neither the amount of the markup, nor the fact that this practice occurs, is ever disclosed to the borrower.³⁵ This practice has a particularly heavy impact on consumers because the majority of automobile sales are executed with the dealer as the original lender.³⁶ Typically, most vehicle buyers are entering the dealership without any pre-arranged financing and are relying on getting a loan through the dealer. The dealer is happy to oblige, and they will frequently get rate quotes from several lenders and pick the one that is most advantageous for the dealership, not the consumer.³⁷ The consumer has no knowledge of the dealer's "shopping," so there is no way for them to know that they may have qualified for a lower interest rate through the dealer.

Another practice that illustrates the lack of transparency to consumers is the Auto Industry Option score, a credit score available only to automobile dealers that contains information unavailable in traditional credit reports. Dealers can use either the consumer accessible Fair Isaac Corporation (FICO) score or the Auto Industry Option score (with specific information on how a borrower handled previous automobile credit) to determine financing eligibility.³⁸ These scores may then be used interchangeably by the dealer to obtain the most profit, and not necessarily the best interest rate for the consumer.³⁹

The Subprime Automobile Finance Industry's Customers

Subprime customers can span across many credit or income categories; however, typical subprime customers have a FICO score below 640 and are not able to borrow money at the best interest rates, which are offered to prime and super prime customers – those whose scores range from 641 to greater than 720.⁴⁰ Financiers within the subprime automobile industry define themselves as serving borrowers “who do not qualify for conventional motor vehicle financing as a result of, among other things, a lack of or adverse credit history, low income levels and/or the inability to provide adequate down payments.”⁴¹

Similar to those most impacted by discrepancies in mortgage lending⁴², subprime auto loan borrowers are frequently minorities, elderly, or low-income, and are disproportionately African-American or Hispanic.⁴³ Surprisingly, even minorities with good credit, who qualify for prime lending rates, often fall victim to subprime lending. Analyses done by statisticians and economists show that minorities with the same credit factors as Caucasian borrowers paid a higher interest rate (due to dealer mark-up) for automobile loans.;⁴⁴ this difference in interest rate can push even prime borrowers into a subprime category.

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Subprime borrowers are also likely to have transitioned to a low-wage job from temporary assistance or simply be living paycheck to paycheck and have few assets.⁴⁵ Low wages typically lock these borrowers out of prime interest rates, regardless of credit history.⁴⁶ Unfortunately, many of these borrowers do not have a credit history, a problem compounded in subprime automobile lending by the lack of payment reporting to credit bureaus from places like Buy Here Pay Here dealerships. Interestingly enough, many low-wage consumers who fall into the subprime category are not high credit risks and are just as likely to pay off their debts as borrowers with higher income.⁴⁷ Unfortunately, their lack of money, established credit history, or low credit score keeps them out of the prime lending range, and they may therefore never have the chance to prove that they deserve good financing options.⁴⁸

Given the facts of the subprime automobile finance industry, it is apparent that borrowers who can least afford it are often paying the most money to own a car, which is a critical link to jobs and family.

It is true that subprime lending helped stimulate the economy by providing asset ownership opportunities to people who were traditionally denied credit because they did not qualify for prime rates.⁴⁹ Unfortunately, loose regulation of subprime lenders has contributed to the current weakened economy.⁵⁰ Although everyone pays for

the effects of a struggling economy, subprime borrowers (especially minorities) essentially pay twice – first in direct terms of more expensive credit, and second in terms of a weaker economy overall.

Subprime lending problems not only impact subprime borrowers - there is also a ripple effect throughout the economy that impacts the entire nation. We can look to subprime mortgage lending as an indicator of how subprime automobile finance may affect the economy. Even as recently as one and a half years ago, it was generally thought that the subprime market was fairly “contained” and would not impact the overall market or financial system. In fact, Federal Reserve Chairman Ben Bernanke said in May 2007, “We believe the effect of the troubles in the subprime sector on the broader housing market will likely be limited, and we do not expect significant spillovers from the subprime market to the rest of the economy or to the financial system.”⁵¹

Today, we know that this is not the case. The state of the subprime housing market crisis and its negative effect on the nation’s economy is clear. The government takeovers of Fannie Mae and Freddie Mac, and the partial nationalization of nine major banks,⁵² also indicate the significant impact that the subprime mortgage market has on everyday life. The subprime automobile finance market, if left unchecked, may have a similar negative effect on our nation’s economic stability. In fact, Moody’s Investors Service data shows that as of March 2008, the

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performance of securities backed by subprime automobile loans began deteriorating at a faster rate, implying an increase in projected lifetime losses. In April 2008, the trend continued, with Moody's indicating that newer subprime automobile loans are faring worse than older ones.⁵³

The Regulatory Environment

Very little regulation or oversight currently exists in the automobile finance industry, which means limited accountability or transparency among lenders. The critical data and information needed to properly oversee automobile lenders is not uniform among finance companies, and the only policies designed to monitor automobile finance cover financial transactions in general, including credit cards, small business loans, and other commercial bank loans. The agencies and policies responsible for automobile lending oversight have broad duties that do not serve the public well when it comes to automobile financing. Two primary sources of regulation include the Truth in Lending Act and the Community Reinvestment Act (CRA).

The Truth in Lending Act (also called the Consumer Credit Protection Act) requires that lenders disclose credit terms to individual consumers at the time of application for financing so that borrowers may compare the terms available from different lending companies and make an informed decision about where to borrow. Creditors

covered by this act include banks, mortgage lenders, credit card companies, automobile financing companies, and any other consumer loan originator to whom the debt is payable. They are required to disclose the finance charges and annual percentage rate of the loan to the applicant. The Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision, the Bureau of Federal Credit Unions, the Farm Credit Administration, and the Federal Trade Commission are all responsible for enforcing the Truth in Lending Act with lenders under their purview. Punishment for non-compliance is limited to fines not more than \$5,000 or one year imprisonment.⁵⁴

While the Truth in Lending Act is a vital disclosure requirement for individual consumers, it requires transparency only in the case of specific transactions or credit offers. The Act does nothing to reveal systematic discrimination or usurious lending policies by lending companies or the greater automobile finance industry. It also does not require disclosure of important automobile lending factors, including add-ons, the amount of dealer markup on the interest rate, unnecessary insurance “requirements,” or the actual vehicle purchase price. Many automobile dealers also use high-pressure sales tactics to keep customers in the dealership until a purchase contract is signed – a practice which acts as a barrier to rate comparison between multiple dealers or finance companies.

Because transportation is such an important and immediate need for workers and families, disclosures under the Truth in Lending Act may have little impact on automobile purchases. In the home mortgage industry, the contract and purchasing process can take months to complete, giving sellers and buyers ample time to reconsider the transaction. Vehicle purchases can take place in a matter of hours, if not minutes, leaving little opportunity for a thoughtful, rational decision.

The Community Reinvestment Act⁵⁵ is intended to encourage depository institutions to help meet the credit needs of the communities in which they operate, and is enforced by the federal agencies responsible for supervising depository institutions. This act covers all financial transactions involving credit, including home mortgages, small business loans, small farm loans, community development loans, and consumer credit loans (including motor vehicle loans). For consumer loans, the Act requires collection of the loan amount, the loan location (by census tract), and the gross annual income of the applicant from institutions where consumer lending is the majority of its portfolio (this is a rare situation, so consumer lending provisions under CRA are not significant).⁵⁶ If lenders do not request or consider income when making a loan, they are not required to report it. Data is collected by the governing agencies, aggregated, and made available to the public.

The Community Reinvestment Act is designed only to indicate whether banks are lending to communities in which they are located and take deposits. It does not govern non-depository institutions like indirect lenders in the automobile industry such as “captives”⁵⁷ (e.g. General Motors Finance Corporation) or Buy Here Pay Here dealers, both of which contribute significantly to the total number of automobile industry loans. Captives and other non-depository automobile lenders are best positioned to dominate originations – they have access to the customer at the point of sale, and they often use financing as a form of discounting in order to drive sales. Captives and independent finance companies account for about three-quarters of all new automobile loan originations, but are not regulated by the Community Reinvestment Act.⁵⁸

Another potential source of regulation concerning disclosure is the Fair and Accurate Credit Transactions (FACT) Act. There is a proposed amendment to this Act (which is, in itself, an amendment to the Fair Credit Reporting Act) to require lenders to provide notice to consumers who are receiving a “materially less favorable” interest rate on a loan than most other consumers because of a detrimental item in their credit history.⁵⁹ The amendment states that consumers who receive the higher interest rate will receive a notice of the rate and a free copy of their credit report.⁶⁰ It is unclear how useful this amendment will be for automobile loan customers. There are many exceptions to the reporting requirements⁶¹ that

could be manipulated by automobile lenders to best serve their interests and not those of the consumer. There is already question from some members of the banking industry on how to make “direct, consumer-to-consumer comparisons” on interest rates in order to decide which customers need disclosures.⁶² This could prove to be an expensive and burdensome task for the industry. On the other hand, data disclosure involving reporting of information from the loan application (like in HMDA) is straightforward, with no “computation” needed on part of the industry.

The lopsided access to information in the automobile market, due largely to a lack of disclosure, has a disparate impact on low-wage workers and their communities. A national sample of 650,000 car purchases revealed that low-wage consumers typically paid between \$50 and \$500 more for the same car, and an extra two percentage points on the resulting loan, than consumers from high-income neighborhoods.⁶³ Communities of predominantly low-wage workers also pay higher interest rates on average.⁶⁴ While these statistics are descriptive and provide an overview of the situation, analysis of low-wage car purchasers could be even more meaningful and provide more statistical proof of payment differentials if information such as credit ratings were available to researchers. Data reporting requirements for automobile loans can help further qualify studies like this. It is important to remember, however, that low income alone does not always translate to a higher credit risk and does not justify higher interest rates.

Current regulation in the automobile finance industry is woefully inadequate for protecting consumers from unethical lending practices by automotive dealers and finance companies. Because of the lack of transparency in the industry, as well as the close relationship that exists among market players, vehicle dealers can use multiple channels to take advantage of even the most knowledgeable consumers.

IV. PERSPECTIVES FROM ANOTHER LENDING MARKET

The Mortgage Industry and the Home Mortgage Disclosure Act (HMDA)

In the 1960s and early 1970s, community activists identified discriminatory mortgage lending patterns and redlining within their neighborhoods and recognized the need for change.⁶⁵ The original movement that spurred the Home Mortgage Disclosure Act (HMDA) legislation began in Chicago, which was, at the time, “a hotbed of redlining activity.”⁶⁶ Thanks to a grassroots movement led by Gail Cincotta, head of *Organization for a Better Austin*,⁶⁷ Chicago passed an ordinance requiring lenders who did business within the city to report on loans made, organized by neighborhood, in response to residents’ refusal to deposit money in the banks without this disclosure.⁶⁸ This ordinance became a building block in the 1975 passage of HMDA by Congress.⁶⁹ Ms. Cincotta found an ally in Senate Banking Committee Chair William

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HMDA makes lending activity more transparent to the public and legislators.

Proxmire (D-WI), who sponsored a bill that required disclosure in lending practices and became the legislation known as HMDA.⁷⁰

HMDA makes lending activity more transparent to the public and legislators.⁷¹ The data collected under HMDA assists interested parties in determining whether financial institutions are lending in, and serving the housing needs of, the communities in which they are based, and also helps identify possible discrimination in lending. In addition, the data helps public officials direct investment into communities and enforce fair lending laws.⁷²

HMDA has had many significant additions to reporting requirements since its inception; today, lenders must report the number of formal loan applications processed, as well as the race, gender, and income of the applicant.⁷³ The census tract location of the property to be financed must also be included, as well as the loan's pricing information, expressed as a spread between the loan's Annual Percentage Rate (APR) and the rate on Treasury securities of comparable maturities, if the loan's APR meets or exceeds a certain threshold level.⁷⁴

Although HMDA has its critics, the legislation has made a significant impact in raising home ownership levels (thereby building assets), especially among minorities.⁷⁵ From the late 1980s through the late 1990s, HMDA legislation (in conjunction with the Community Reinvestment Act) helped stimulate prime rate lending to

previously underserved groups, such as moderate-income families and minorities.⁷⁶ In 2004, the nationwide home ownership rate was 70%, up from 64% in 1994.⁷⁷ This increase is largely attributable to mortgages being made available to consumers who may have been denied credit prior to updated HMDA regulations.⁷⁸ Until 1998, subprime lending was not common – few borrowers received subprime loans. Shortly thereafter, lenders discovered the profitability of subprime loans, and the industry skyrocketed.⁷⁹ While unethical forms of subprime lending raise concerns about our nation’s financial security, there is general agreement among economists that HMDA has helped stimulate lending in low to moderate income households and, in turn, improve the credit services available within low to moderate income communities.⁸⁰ HMDA data can help lenders improve the products and services that they offer to all customers, and can help them expand their markets.⁸¹

The FDIC and several other federal regulatory agencies use HMDA data as an aid in enforcing banks’ compliance with fair lending laws. The data allow the agencies to assess any discriminatory lending practices and take corrective action. Between 2004 and 2007, the FDIC referred 115 cases of illegal lending discrimination to the Department of Justice for review.⁸² In 103 of the cases, the offending banks were required to remedy the harm that they had done to the consumers, advise them of their right to sue, and cease all additional discriminatory action.⁸³

V. RECOMMENDATIONS: THE CALL FOR ACTION

Based on the current lack of oversight in the automobile finance industry and the positive outcomes in the mortgage market as a result of HMDA regulation, more transparency, accountability, and oversight are clearly necessary. If lenders are required to report statistics on vehicle loans that parallel those reported for home mortgages, the public will have access to valuable data that will help protect consumers and identify discriminatory or usurious lending patterns. Violators of fair lending laws should suffer appropriate penalties and be ordered to cease their unlawful practices. Our recommendations include:

- 1) Start a conversation among advocates, policymakers, researchers, and others about specific next steps for improving the data collection and accountability for the automobile finance industry and shaping specific policy changes that can be furthered at both the federal and state levels.**

- 2) Educate legislators about the need to implement a data disclosure act, similar to HMDA, for the automobile industry.**

HMDA experts generally agree that regulation similar to HMDA for the automobile finance industry would benefit consumers.⁸⁴ Transparency and disclosure are critical components of reigning in unethical lenders so that *all* vehicle loan applicants can have fair access to reasonable credit terms. Obtaining a vehicle at a fair cost is especially important to low-wage families who must have affordable, reliable transportation to commute to work. If these citizens can develop a solid credit history, maintain employment, and build their assets, they will become the foundation for stronger communities.

3) Support disclosure legislation that contains automobile industry-specific reporting requirements, in addition to those required by HMDA

Disclosure legislation for the automobile finance industry should contain data requirements mirroring those in HMDA, such as race, ethnicity, gender and income, as well as data specific to the automobile finance industry. This data would include total interest rate, dealer markup amount, loan amount, vehicle price, and the borrower's credit score. Some HMDA experts also believe that the age of the borrower is important to disclose.⁸⁵ While advocates have not been successful in adding age or credit score to HMDA requirements to date, these are important factors in the request for automobile industry reporting. Privacy concerns have been cited as a reason for excluding credit scores from HMDA data. Including credit scores of

automobile buyers in publicly accessible data does not pose as much of a privacy risk since it is difficult to trace an automobile purchase to a specific address (and buyer). Credit score data can also be aggregated for reporting so that individuals' privacy is not compromised.⁸⁶

Banks already have the technology in place for HMDA reporting, so the data should be easy to report for automobile loans made by those institutions who already report HMDA data. There are automobile financiers who do not offer mortgage loans, so new reporting systems would have to be implemented at these businesses. However, they do capture loan application data in some type of electronic format, so there should be a simple way to capture and transmit this data for required reporting purposes.⁸⁷

4) Introduce the reporting requirements in stages, beginning with requirements that apply to automobile dealers who provide financing to customers

Because the majority of automobile purchasers finance their vehicle through the dealer, they should be the primary focus of reporting requirements. By 2011, dealers should have all systems in place to report the required data on any loans they make. Data could be aggregated at the regional level through a regional manager and forwarded to the appropriate collection agency.

5) Assign clear oversight and regulatory responsibilities to a federal agency

The Department of Justice (DOJ) is the best agency to oversee compliance with data disclosure requirements among lenders. DOJ, in conjunction with the Federal Trade Commission, already has a role in the oversight of automobile transactions, so it is logical that they would oversee reporting requirements related to financing involved in the sale of a vehicle. We suggest a federal agency for two reasons; first, HMDA compliance oversight resides with several federal agencies (including DOJ), and second, since this is a national proposal, it is important to have national jurisdiction. Some states have regulations in place to protect automobile purchasers who finance their vehicles, but the breadth of regulation and the level of enforcement are not consistent among states.

6) Remove legislative barriers that inhibit the collection of pertinent borrower data, such as race, ethnicity, or other personal characteristics (i.e. Regulation B of the Equal Credit Opportunity Act)⁸⁸

In order for our proposed data reporting requirements to be enacted into law, we need legislators to reverse the stipulations of Regulation B. It was originally put in place to provide a non-discriminatory credit approval process to applicants, but many opponents argue that the lack of

available personal data can lead to discrimination, and at the very least, makes it difficult to identify discrimination (as it was in the home mortgage industry prior to HMDA).⁸⁹ The House Financial Services Committee has heard testimony urging them to overturn Regulation B and require every financial institution with assets greater than one billion dollars to disclose race, gender, and ethnicity for all small business loans made by 2011. Congressman Barney Frank and the subcommittee's leaders are optimistic that the proposal will be introduced and passed in 2009.⁹⁰ The same case for overturning Regulation B would come from automobile loan disclosure as well.

As our nation struggles with the aftermath of the subprime mortgage fiasco, we need to be proactive in preventing a similar situation within the subprime automobile finance market. Implementing disclosure regulations for the automobile finance industry, similar to HMDA, is crucial for the benefit of our communities and the strength of our economy.

Endnotes

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